

Message Text

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70

ACTION EUR-25

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-11 L-03

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INFO USMISSION EC BRUSSELS

AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY THE HAGUE

AMCONSUL STRASBOURG

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E.O. 11652: N/A

TAGS: EDC, GW, PGOV

SUBJECT: PRESSURE GROWS ON FDP DEPUTY TO RESIGN

BEGIN SUMMARY: FDP BUNDESTAG DEPUTY ERNST ACHENBACH IS NOW UNDER BI-PARTISAN FIRE FOR HIS OPPOSITION TO AN AGREEMENT THAT WOULD MAKE POSSIBLE THE PUNISHMENT OF SOME WAR CRIMINALS NOW LEGALLY UNTOUCHABLE AND HE MAY BE FORCED TO RESIGN. END SUMMARY

1. FOLLOWING WORLD WAR II, KURT LISCHKA, WHO HAD BEEN CHIEF OF THE SS DURING THE OCCUPATION OF PARIS, WAS SENTENCED IN ABSENTIA BY A FRENCH COURT TO LIFE AT HARD LABOR FOR HAVING DEPORTED FRENCH JEWS TO CONCENTRATION CAMPS. LISCHKA NEVER IN FACT SERVED ANY PART OF HIS SENTENCE AND SUBSEQUENTLY NEVER RETURNED TO FRANCE WHERE HE WOULD OF COURSE HAVE BEEN ARRESTED. NOR COULD

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THE GERMAN GOVERNMENT EXTRADITE HIM BECAUSE

ARTICLE 16 OF THE BASIC LAW FORBIDS THE EXTRADITION OF A GERMAN CITIZEN. NOR COULD A GERMAN COURT TRY HIM BECAUSE OF THE CONVENTION OF 1954 BETWEEN THE THREE WESTERN POWERS AND THE FRG ON THE SETTLEMENT OF MATTERS ARISING OUT OF THE WAR.

2. BECAUSE THIS SITUATION WAS PATENTLY UNSATISFACTORY FRANCE AND THE FRG AGREED IN 1971 TO GIVE THE GERMAN COURTS JURISDICTION WHEN A SENTENCE IN ABSENTIA WAS MADE AND THE SENTENCE NEVER CARRIED OUT. THE AGREEMENT REQUIRED RATIFICATION BY THE GERMAN PARLIAMENT AND WAS, ACCORDINGLY, INTRODUCED INTO THE BUNDESTAG IN 1971 AND REFERRED TO COMMITTEE. THE BILL WAS NOT IN FACT CONSIDERED BY COMMITTEE, HOWEVER, BECAUSE THE SPD/FDP MAJORITY IN THE BUNDESTAG WAS TOO SMALL TO RISK EVEN A SINGLE DEFECTION AND THE GOVERNMENT FELT THAT ONE OR MORE CONSERVATIVE FDP DEPUTIES INCLUDING ACHENBACH MIGHT DEFECT TO THE OPPOSITION. IN FEBRUARY 1973 THE RATIFICATION BILL WAS REINTRODUCED INTO THE BUNDESTAG AND REFERRED TO COMMITTEE WITHOUT DEBATE AND WOULD HAVE ELICITED VERY LITTLE PUBLIC INTEREST HAD IT NOT BEEN FOR THE CONVICTION ON JULY 9, 1974 OF BEATE KLARSFELD, A GERMAN BORN FRENCH NATIONAL, WHO WAS SENTENCED TO TWO MONTHS FOR HAVING TRIED TO KIDNAP LISCHKA TO RETURN HIM TO FRANCE. THE MATTER WAS DISCUSSED BY GISCARD D'ESTAING AND HELMUT SCHMIDT WHEN THE FRENCH PRESIDENT VISITED BONN IN EARLY JULY AND CHANCELLOR SCHMIDT PROMISED TO PUSH FOR EARLY PASSAGE OF THE RATIFICATION BILL. ACHENBACH, COMMITTEE RAPPORTEUR FOR THE LEGISLATION, QUITE OPENLY OPPOSED THE BILL ARGUING THAT THE WAR WAS SO FAR IN THE PAST THAT A GENERAL AMNESTY WOULD BE THE WISER COURSE AND QUESTIONED WHETHER AFTER SO LONG A TIME A FAIR SENTENCE WOULD BE POSSIBLE. HOWEVER, BECAUSE ACHENBACH HAD SERVED IN THE FRENCH EMBASSY IN PARIS DURING THE WAR AS A POLITICAL OFFICER HE WAS IMMEDIATELY SUBJECTED TO WIDE AND HARSH CRITICISM, EVEN FROM WITHIN HIS OWN PARTY, THE FDP, AND THERE ARE EVEN THOSE WHO EXPRESSED THE OPINION THAT ACHENBACH HIMSELF WAS INDIRECTLY INVOLVED IN LISCHKA'S OPERATIONS.

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3. ACHENBACH IS AT THE MOMENT IN SOUTH AMERICA. WHEN HE RETURNS HIS PARTY WILL CONSIDER THE MATTER AND IT IS POSSIBLE THAT IT WILL ASK HIM TO RESIGN. EVEN IF IT DOES, ACHENBACH, WHO HAS BEEN A BUNDESTAG DEPUTY SINCE 1957, WOULD NOT HAVE TO RESIGN BUT WOULD PROBABLY CHOOSE TO DO SO THOUGH PERHAPS NOT UNTIL THE BUNDESTAG RETURNS IN MID-SEPTEMBER.

HILLENBRAND

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